

No. 9/8/86-6Lab./6962.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of Presiding Officer, Labour Court, Faridabad in respect of the dispute between the workman and the management of Haryana Urban Development Authority, Sector 16, Faridabad :—

IN THE COURT OF SHRI A. S. CHALIA, PRESIDING OFFICER, LABOUR COURT,
FARIDABAD

Reference No. 57 of 1986

between

BIRBAL SINGH, WORKMAN AND THE RESPONDENT-MANAGEMENT OF
HARYANA URBAN DEVELOPMENT AUTHORITY, SECTOR 16,
FARIDABAD.

Present.—

Workman with Shri R. N. Roy.

Shri M. Kaushik, for the respondent-management.

AWARD

This reference under section 10 (i) (c) of Industrial Disputes Act, 1947 (Act No. 14 of 1947) as amended from time to time and latest by Act No. 49 of 1984 (hereinafter referred as the said Act was made to this Court by the State of Haryana (Department of Labour),—*vide* its endorsement No. ID/Fd/52173—77, dated 24th December, 1985 to adjudicate upon the dispute of service matter covered by Second Schedule under section 7 of the said Act, arisen between Shri Bir Bal Singh, and management of Haryana Urban Development Authority, Sector 16, Faridabad. Accordingly, it has been registered as reference No. 57 of 1986.

2. The parties have settled the dispute at their own level and to that effect, I have recorded statements. According to the same respondent will take back the petitioner on duty from tomorrow without any break, but he would not be entitled for any arrears of pay. The reference is accordingly answered,

Dated the 11th July, 1986.

A. S. CHALIA,
Presiding Officer,
Labour Court, Faridabad.

Endorsement No. 1935, dated the 5th August, 1986.

Forwarded (four copies) to the Commissioner and Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

A. S. CHALIA,
Presiding Officer,
Labour Court, Faridabad.

No. 9/8/86-6Lab./6952.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Faridabad, in respect of the dispute between the workman and the management of (i) State Transport Controller, Haryana, Chandigarh (ii) Haryana Roadways, Faridabad.

IN THE COURT OF SHRI A. S. CHALIA, PRESIDING OFFICER,
LABOUR COURT, FARIDABAD

Reference No. 583 of 1985.

between

PARTAP SINGH WORKMAN, C/O SHRI BHIM SINGH YADAV, 192, SECTOR 15, FARIDABAD
AND THE RESPONDENT-MANAGEMENT OF STATE TRANSPORT CONTROLLER,
HARYANA, CHANDIGARH, (ii) HARYANA ROADWAYS, FARIDABAD.

Present.—

Shri Bhim Singh Yadav, for the workman.

Shri K.L. Piplani, for the respondent-management.

AWARD

This reference under section 10(i)(c) of Industrial Disputes Act, 1947 (Act No. 14 of 1947) as amended from time to time and latest by Act No. 49 of 1984 (Hereinafter referred as the said Act) was made to this Court by the State of Haryana (Department of Labour),—*vide* its endorsement No. ID/FD/116-85/39090—96, dated 20th September, 1985 to adjudicate upon the dispute of service matter covered by Second Schedule under section 7 of the said Act, arisen between Shri Partap Singh, workman and the management of (i) State Transport Controller, Haryana, Chandigarh, and (ii) Haryana Roadways, Faridabad. Accordingly, it has been registered as reference No. 583 of 1985.

2. The stage of making the reference of the matter in dispute has arisen in the following circumstances :—

Shri Pratap Singh workman was appointed on 27th April, 1983 as a Apprentice Clerk at Faridabad by Haryana Roadways on monthly pay of Rs. 230 and his services were dispensed with on 28th March, 1985. It has been claimed that during this period his performance was very good and he never gave any chance of complaint about his work and conduct. The allegations are that his services were terminated without any notice and assigning any reason. The claim made by him is that he had completed more than 240 days in service and as such the same could not be dispensed without any valid ground and as such the said impugned order is illegal, arbitrary malafide and against the principles of natural justice and the same amounts to unfair labour practice and abuse of administrative powers. Accordingly it has been requested by him that he be reinstated in to his service with full back wages and continuity of service.

3. On notice, the reference has been contested by the Haryana Roadways and to that effect written statement has been filed. Preliminary objection has been raised to the effect that the petitioner is not a workman as claimed. On merits it has been conceded that he was appointed on 27th April, 1983 as a Apprentice Clerk for one year but he had continued upto 28th March, 1985. It is being contended that his services were dispensed with,—*vide* order dated 6th April, 1984 w.e.f. 26th April, 1984 and thereafter he worked in different capacity details of which have been mentioned in the written statement. Further claim has been made to the effect that after 28th March, 1985 his services were no longer required and as such the same were dispensed with. Further version is that he did not work continuously and as such he is not entitled to be reinstated. By way of rejoinder the petitioner reiterated his claim as well as allegations.

4. On the pleadings of the parties, my learned predecessor had framed the following issue,—*vide* his order dated 14th January, 1986 :—

Whether services of Shri Partap Singh Clerk were terminated rightly and legally and if not, what type of relief he is entitled for?

(As per reference)

5. In support of the claim Shri Partap Singh petitioner appeared as witness and stated in his favour on oath. To rebut the same, the e is statement of clerk of Haryana Roadways Respondent. Relevant record has also been produced on file. I have heard both the parties represented as above and have gone through the case file also. My findings on the said issue is as follows :—

6. The base as well as foundation of petitioner's claim is that he had worked with effect from 27th April, 1983 to 27th April, 1985 as a clerk with the respondent and on the face of it, his period of service has been more than 240 days and his services could not be terminated against mandatory provisions of section 25-F of the said Act, referred above. So far as first claim is concerned there appears to be no dispute about the same. Since it has been admitted by the respondent in its written statement dated 24th

December, 1985 that this petitioner had worked with effect from 27th April, 1983 to 27th March, 1985 but in different capacities. In this respect documents Exhibit M-1 to M-7 can be read with advantage. Over and above this, there is statement of respondents clerk who had admitted on the basis of the record that he has worked from 27th April, 1983 to 29th March, 1985 such is the statement of petitioner also.

7. No question arises whether respondent was entitled to dispensed with his services in the alleged manner? The allegations are that his services had been terminated without any notice or payment of one month pay in lieu of and further without making any compensation. Again it is clear from the respondents record. It is the clerk who has admitted that no retrenchment compensation was given to the workman at the time of termination. In the said act there are mandatory provisions to protect a workman having continuous service. *Vide* section 25-B(2)(a)ii, a workman is in continuous service in case in proceedings period, he has worked for 240 days and as such a workman is entitled for protection as required under section 25-F of the said Act. For the sake of guidance it is reproduced as below :—

25-F.—No workman employed in any industry who has been in continuous service for not less than one year under an employer shall be retrenched by that employer until—

- (a) the workman has been given one month's notice in writing indicating the reasons for retrenchment and the period of notice has expired, or the workman has been paid in lieu of such notice wages for the period of the notice ;

Provided that no such notice shall be necessary if the retrenchment is under an agreement which specifies a date for the termination of service :

- (b) the workman has been paid, at the time of retrenchment compensation which shall be equivalent to fifteen days' average pay (for every completed year of continuous service or any part thereof in excess of six months, and

.....
.....

while applying the provisions of the aforesaid section of the facts of the present case, it is concluded that admittedly no notice was given to the petitioner and further no compensation was also paid to him. The order of terminating his services on the fact of it is against the said section and the same on the face of it is a bad one.

8. In view of the above discussions, I accept the reference and decide that services of the petitioner were terminated in an illegal manner and he is entitled for reinstatement with full back wages and further with the benefit of continuity of service.

The reference is accordingly answered.

Dated, 25th July, 1986.

A. S. CHALIA,
Presiding Officer,
Labour Court, Faridabad.

Endst. No. 1795, dated the 30th July, 1986.

Forwarded (four copies) to the Commissioner and Secretary to Government, Haryana, Labour and Employment Department, Chandigarh, as required under section 15 of the Industrial Disputes Act.

A. S. CHALIA,
Presiding Officer,
Labour Court, Faridabad.

KULWANT SINGH,

Secretary to Government Haryana,
Labour & Employment Deptt.